

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID ELTON MANDEVILLE,

Petitioner,

v.

PAUL K. SMEAL,

Respondent.

CIVIL ACTION NO. 3:CV-09-1125

(JUDGE CAPUTO)

(MAGISTRATE JUDGE BLEWITT)

ORDER

NOW, this 25th day of September, 2012, **IT IS HEREBY ORDERED** that:

(1) The Report and Recommendation (Doc. 79) is **ADOPTED in part and MODIFIED in part** as set forth in the accompanying Memorandum.

(A) The recommendation to deny Petitioner's Motion for Relief from Judgment (Doc. 28) as moot is **ADOPTED**.

(B) The recommendation to deny Petitioner's Motion for Respondent to Furnish Missing Records (Doc. 73) is **ADOPTED**.

(C) The recommendation to deny Petitioner's Motion for Discovery (Doc. 74) is **ADOPTED**.

(D) The recommendation to deny Petitioner's habeas Petition (Doc. 1) with respect to all claims is **ADOPTED** as modified in the accompanying Memorandum.

(2) A certificate of appealability shall issue only as to the issue of whether the Magistrate Judge and this Court erred in disposing of the Petition without review of the entire state court record. (Objection 1 to the Report and Recommendation, Doc. 82.)

(3) The Clerk of Court is directed to mark the case as **CLOSED**.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge